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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,511	05/19/2004	Tadd E. Vanyo	RA 5566 (33012/373/101)	7139

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EXAMINER

HOFFLER, RAHEEM

ART UNIT PAPER NUMBER

2169

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/849,511

Applicant(s)

VANYO ET AL.

Examiner

Raheem Hoffer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 1, 16, 19 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## Detailed Action

### Claim Objections

1. Claims 1 and 21 are objected to because of the following informalities: Incorrect lettering is used within the claims; e.g., “; c. a legacy data base management system having access to at least one data base responsively coupled to said user terminal via said publicly accessible digital data communication network; and c. a stored procedure...”. Claims 16 and 19 are objected to due to the misspelling of the word “publicly” which is written as “publically” within the claims. Appropriate correction is required.

### Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 3, 8, 10, and 13-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 8, 10, 12, 14 and 15 of copending Application No. 10849473 (Vanyo et al) in view of sharing a common Inventors and Assignees. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

<b>Claim 1 of U.S. PG Pub No. 10849473</b>	<b>Claim 1 of this application</b>
An apparatus comprising:	An apparatus comprising:
A user terminal which generates a first service request,	A user terminal which generates a user request,
A publicly accessible digital data communication network responsively coupled to said user terminal,	A publicly accessible digital data communication network responsively coupled to said user terminal,
A legacy data base management system responsively coupled to said user terminal via said publicly accessible digital data communication network which receives said first service request,	A legacy data base management system having access to at least one data base responsively coupled to said user terminal via said publicly accessible digital data communication network, and
A legacy data base incompatible with, but	a stored procedure having a sequence of

responsively coupled to, said data base management system, and A facility responsively coupled to said legacy data base management system and said legacy data base which permits said legacy data base management system to access said legacy data base in response to said receipt of said first service request.	command script statements responsively coupled to said legacy data base management system which is executed in response to said user request.
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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Note the comparison above, Claim 1 of U.S. PG Pub No. 10849473 teaches of An apparatus comprising a user terminal which generates a first service request, a publicly accessible digital data communication network responsively coupled to said user terminal, a legacy data base management system responsively coupled to said user terminal via said publicly accessible digital data communication network which receives said first service request, a legacy data base incompatible with, but responsively coupled to, said data base management system and a facility responsively coupled to said legacy data base management system and said legacy data base which permits said legacy data base management system to access said legacy data base in response to said receipt of said first service request. Claim 1 of this application claims a

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number of elements that are commonly shared by U.S. PG Pub No. 10849473. This application differs in that it teaches of a stored procedure having a sequence of command script statements responsively coupled to said legacy data base management system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove the legacy database taught by Vanyo et al and include a sequence of command script statements responsively coupled to said legacy database management system executed in response to said user request because of the opportunity to define, initialize, and execute stored procedures.

Depending claims 2, 4-5, 7, 9, 12, and 17-20 further limit the claims made by this application that are not met by U.S. PG Pub No. 10849473. For example, claim 4 of this application recites the limitation "The apparatus ... wherein said at least one data base further comprises an OLEDB data base."

#### **Claim Rejections – 35 USC 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Eastwick et al (US Patent No. 6240417B1).

As for Claim 1, Eastwick et al clearly teaches a user terminal which generates a user request (e.g., workstation; (col. 2, lines 11-14)(col. 3, lines 65-67- col. 4, lines 1-3)(col. 4, lines 4-22)); b. a publicly accessible digital data communication network responsively coupled to said user terminal (e.g., "any communication connection"; (col. 3, lines 65-67 – col. 4, lines 1-3)); c. a legacy data base management system having access to at least one data base responsively coupled to said user terminal via said publicly accessible digital data communication network (col. 1, lines 56-59; col. 3, lines 13-25); and c. a stored procedure having a sequence of command script statements responsively coupled to said legacy data base management system which is executed in response to said user request (e.g., database integrator; (col. 1, lines 59-67- col. 2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)).

As for Claim 2, Eastwick et al teaches a user terminal generates a second user request which causes said legacy data base management system to add parameters to said stored procedure (col. 6, lines 55-61; col. 7, lines 20-27).

As for Claim 3, Eastwick et al teaches at least one database further comprises an ODBC database (col. 3, lines 13-16; col. 7, lines 33-36).

As for Claim 4, Eastwick et al teaches at least one database further comprises an OLEDB database (col. 3, lines 13-16; col. 7, lines 33-36). OLEDB can be an equivalent

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of ODBC and used in its place. OLEDB is commonly known in the art by definition as an open specification that can interface with all types of data files on a computer network.

As for Claim 5, Eastwick et al teaches a legacy database management system further comprises BIS (col. 1, lines 56-59; col. 3, lines 13-25; whereas Eastwick's teachings of a software interface in conjunction with legacy data in a database reads on Applicant's claim language involving a BIS).

As for Claim 6, Eastwick et al teaches a. transmitting a service request requesting access to said command language scripted stored procedure from said user terminal to said legacy data base management system via a publicly accessible digital data communication network (col. 2, lines 11-14)(col. 3, lines 65-67- col. 4, lines 1-3)(col. 4, lines 4-22); b. receiving said service request by said legacy data base management system (e.g., integration component; col. 2, lines 23-33); c. accessing said command language scripted stored procedure in accordance with said service request (e.g., database integrator; (col. 1, lines 59-67- col. 2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)); and d. transferring an appropriate response from said legacy data base management system to said user terminal via said publicly accessible digital data base management system (col. 1, lines 59-67- col. 2, lines 1-10).

As for Claim 7, Eastwick et al teaches executing said command language script corresponding to said service request (e.g., database integrator; (col. 1, lines 59-67- col. 2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)).

As for Claim 8, Eastwick et al teaches a publicly accessible digital data communication network further comprises the Internet (col. 3, lines 65-67 – col. 4, lines 1-3).

As for Claim 9, Eastwick et al teaches transferring a second service request from said user terminal to said legacy database management system which causes said accessing step to enter parameters into said command language scripted stored procedure (e.g., input/parameters; col. 6, lines 55-61; col. 7, lines 20-27).

Claims 10, 14, and 20 differ from Claim 5 in that claim 10 is a method, claim 14 is an apparatus, and claim 20 is an improvement whereas claim 5 is apparatus claim. Thus, claims 10, 14, and 20 are analyzed as previously discussed with respect to claim 5 above.

As for Claim 11, Eastwick et al teaches a. permitting means for permitting a user to transfer a service request via a publicly accessible digital data communication network (col. 3, lines 65-67 – col. 4, lines 1-3); b. offering means responsively coupled to said/permitting means via said publicly accessible digital data communication

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network for offering legacy data base management services involving access to at least one data base having a scripted command language stored procedure (col. 1, lines 56-59; col. 3, lines 13-25); and c. accessing means responsively coupled to said offering means for accessing said scripted command language stored procedure in response to said service request (e.g., navigator/terminal emulator; col. 4, lines 42-44, 56-62; col. 6, lines 39-67- col. 7, lines 1-5).

Claim 12 differs from Claim 7 in that claim 12 is an apparatus whereas claim 7 is a method claim. Thus, claim 12 is analyzed as previously discussed with respect to claim 7 above.

As for Claim 13, Eastwick et al teaches a generating means located within said permitting means for generating a second service request (e.g., navigator; col. 4, lines 56-62; col. 6, lines 39-67- col. 7, lines 1-5).

As for Claim 15, Eastwick et al teaches a permitting means further comprises an industry standard personal computer (e.g., workstation; (col. 2, lines 11-14)(col. 3, lines 65-67- col. 4, lines 1-3)(col. 4, lines 4-22)).

Claim 16 differs from Claim 11 in that claim 16 is an improvement whereas claim 11 is an apparatus claim. Thus, claim 16 is analyzed as previously discussed with respect to claim 11 above.

As for Claim 17, Eastwick et al teaches a plurality of variables loaded into said scripted command language stored procedure in response to said service request (e.g., input/parameters; col. 6, lines 55-61; col. 7, lines 20-27).

Claim 18 differs from Claim 2 in that claim 18 is an improvement whereas claim 2 is apparatus claim. Thus, claim 18 is analyzed as previously discussed with respect to claim 2 above.

Claim 19 differs from Claim 8 in that claim 19 is an improvement whereas claim 8 is method claim. Thus, claim 19 is analyzed as previously discussed with respect to claim 8 above.

Claim 21 differs from Claim 1 in that claim 21 is an apparatus for permitting a user to access a stored procedure whereas claim 1 is an apparatus claim. Thus, claim 21 is analyzed as previously discussed with respect to claim 1 above.

### **Conclusion**

6. The prior art made of reference and not relied upon is considered pertinent to the applicant's disclosure.

Hamilton et al (USPG Pub No. 20040078374A1) teaches a remote database access apparatus, method, and computer program product.

Flescher et al (USPG Pub No. 20040103147A1) teaches a system for enabling collaboration and protecting sensitive data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raheem Hoffer whose telephone number is (571) 270-1036. The examiner can normally be reached on 7:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on (571) 272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RH



Raheem Hoffler



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PRIMARY EXAMINER